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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,757	12/21/2001	Lee E. Cannon	4978US (01-01-029)	2583
4743	7590	05/23/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			BROCKETTI, JULIE K	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/028,757	<b>Applicant(s)</b> CANNON, LEE E.	
	<b>Examiner</b> Julie K Brockett	<b>Art Unit</b> 3713	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 56-66 and 68-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56-66 and 68-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 28, 2005 has been entered.

### ***Claim Objections***

Claims 54, 59 are objected to because of the following informalities:

1. Claim 54 states, "...determining to initiate a bonus game..." This is awkwardly worded and the Examiner believes the word "whether" needs to be inserted after the word "determining".
2. Claim 59 states "...to enter to the bonus game..." The word "in" needs to be inserted after the word "enter".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 54, 60, 61, 63-66, 72, 73, 75-77, 79, 80, 82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura, U.S. Patent No. 6,769,986 B2 in view of Walker, U.S. Patent No. 6,394,899 B1.**

Vancura discloses a gaming method and device. A wager is received from a player. An image representing a first game is displayed. The device determines whether to initiate a bonus game (See Vancura col. 7 lines 23-52; Fig. 1). A trivia question is selected a fixed set of answers are associated with the trivia question for the bonus game. The trivia question and the fixed set of answers have a difficulty level selected according to a criterion. An image is displayed representing the bonus game. An answer selection of one of the fixed sets of answers is selected from the player. An award is determined based on the answer selection (See Vancura col. 6 lines 24-67; col. 1-7) [claims 54, 66]. The game of Vancura can be played by multiple players therefore, one may receive a wager from a second player, determine to initiate a bonus game for the second player, select a second trivia question and a second fixed set of answers associated with the second trivia question for the bonus game. The second trivia question and the second fixed set of answers having a difficulty level selected according to a criterion. An image representing the bonus game is displayed and a second answer selection is received from the second player of

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one of the fixed second set of answers and a second award is based on the second answer selection (See Vancura col. 7 lines 23-52) [claims 61, 73]. For example, a second person can play the game on a second gaming machine or can come and play the game at the same gaming machine once the first player is done. It is obvious to one skilled in the art that receiving a wager from a player comprises receiving a wager from a player comprises receiving a wager via a coin acceptor, a bill receiver or a card reader [claims 63, 75]. These are all common ways to receive a wager in a gaming device. Determining to initiate a bonus game comprises determining one of a combination of reels, a hand in video poker and a hand in video blackjack (See Vancura col. 3 lines 8-11) [claims 64, 76]. The first game comprises one of a video slot game, a video poker game, a video blackjack game, a video keno game and a video bingo game (See Vancura Fig. 1) [claims 65, 77]. The gaming system includes a display unit, a wager input device, a player input device and at least one processing unit operably coupled to the display unit, the wager input device, the player input device and a memory (See Vancura Fig. 1) [claim 66].

Vancura lacks in disclosing that the criterion is independent of player preferences. Walker discloses a trivia game in which the criteria for the difficulty level of the questions is independent of player preferences (See Walker col. 2 lines 53-56; col. 7-21; col. 6 lines 28-30) [claims 54]. The criterion comprises a past performance of the player and a status in the bonus game (See Walker col. 2 lines 53-56; col. 7-21; col. 6 lines 28-30) [claims 79, 80, 82,

83]. For example, the difficulty level may be decided based on a player's skill level, which is based on past performances, i.e. a status that a player has achieved in the bonus game. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the difficulty level of a question independent of the player preference. For example, a player may prefer easy questions, but if they are a good competitor they should have a more difficult skill level and therefore should have more difficult questions in order for the player to have a more difficult chance to answer the question thereby having the game be in the casino's advantage and not the player's. Vancura also lacks in disclosing forming a team of players. Walker discloses that when receiving an answer selection from the player, the player may form a team from a plurality of players. It is obvious that in team play, the players vote to decide which answer they wish to state. Therefore, the vote is associated with at least one of the fixed set of answers. The answer selection according to the vote is then determined from the at least one of the plurality of players (See Walker col. 6 lines 40-47) [claims 60, 72]. It would have been obvious to one of ordinary skill in the art to have players play as a team. Team play is very common in trivia games because the more players you have, the better the chance that someone on the team will know the answer and the team can answer the question correctly thus winning the prize. Consequently, teams can help players win in trivia games.

**Claims 56-59, 62, 68-71 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura, in view of Walker, in further view of Olsen, U.S. Patent No. 6,217,448.** Vancura and Walker lack in specifically disclosing how the bonus pools are funded. Olsen teaches that determining an award comprises determining an award from a bonus pool generated at least in part through the wager received from the player (See Olsen col. 9 lines 50-67) [claims 56, 68]. The award can comprise the entire bonus pool or a portion of the bonus pool (See Olsen col. 9 lines 50-67) [claims 57, 58, 69, 70]. Olsen further teaches that when determining to initiate a bonus game it determines if a qualification for the player to enter to the bonus game has occurred including setting a stake in the bonus pool for the player in the bonus game according to the qualification (See Olsen col. 25 lines 45-49) [claims 59, 71]. Furthermore, if a second person plays the wagering game, the bonus pool is generated at least in part through the wager received from the first player and the wager received from the second player [claims 62, 74]. It would have been obvious to one of ordinary skill in the art to fund the bonus pools through the player's wager and to award the player all or a portion of the pool. By funding the pool through the player's wagers, the pool is self-sufficient and the casino does not lose any money on awarding the pool since it maintains itself through player wagers. Furthermore, it is well known throughout the art to have a qualification to participate in a bonus game such as a max bet and to have that

bet fund the pool. Once again, if the bonus pool is self sufficient, the casino is still profitable because it does not have to award any money outside of the pool.

**Claims 78 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura, in view of Walker, U.S. Patent No. 6,394,899 B1, in further view of Walker et al., U.S. Patent No. 6,193,606 B1.**

Vancura and Walker lacks in specifically disclosing that the criterion comprises a random selection. Walker et al. teaches of an electronic gaming device with a trivia game component. The trivia questions have a difficulty level selected according to a criterion in which the criterion comprises a random selection (See Walker col. 8 lines 26-47; col. 10 lines 59-67; col. 11 lines 1-9) [claims 78, 81]. For example, each question has a certain difficulty level and the questions are randomly selected, therefore the difficulty level of the question is randomly selected. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the difficulty level of the questions randomly so that players do not know the types of questions or difficulty of them that they may receive thereby making the overall game more random and keeping the overall quality of the game as a game of chance. Consequently, the more random that a game is, the more it is advantageous to the casino and more profitable.

***Response to Amendment***



It has been noted that claims 54 and 66 have been amended. Claims 55 and 67 have been cancelled. New claims 78-83 have been added.

### ***Response to Arguments***

Applicant's arguments filed February 28, 2005 have been fully considered but they are not persuasive.

While the Examiner agrees that Vancura lacks in disclosing that the criterion is independent of player preferences. Walker et al., U.S. Patent No. 6,193,606 B1 and 6,394,899 B1 both teach this feature.

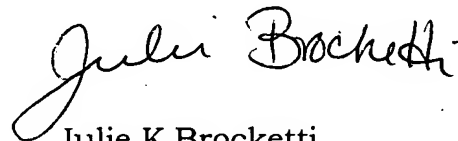
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie K Brockett  
Primary Examiner  
Art Unit 3713